

1 MR. LYON: Yes, sir.

2 MR. GORDIN: That's fine. Throughout  
3 this as to matters of expertise as opposed to  
4 matters in which he's a fact witness, I'll object  
5 throughout this deposition.

6 MR. LYON: That's fine, and I'll  
7 stipulate that we have a standing objection.

8 Let me try to restate the question.

9 Q. What can happen to a backup tape that's  
10 been sitting around for two years?

11 A. It can deteriorate.

12 Q. Which could result in being unable to  
13 access certain files?

14 A. Certain or all, depending on how it was  
15 stored.

16 Q. If would it increase the chances of  
17 deterioration of a tape if it were stored in an  
18 area that could become warm, let's say, more than  
19 90 degrees?

20 A. Yes.

21 Q. And moist?

22 A. Yes.

23 Q. As a computer professional, would you  
24 recommend that backup tapes be stored in a warm,  
25 moist environment?

1 A. No.

2 Q. Would you recommend that they be stored  
3 in a cool, dry, environment?

4 A. Yes.

5 Q. Did anyone associated with the Wilson  
6 law firm ask you if you had seen any individuals  
7 purging documents?

8 MR. ALTSHULER: I object to the  
9 question. It's lacking foundation.

10 I don't think the witness has testified  
11 he knew what the Wilson law firm -- there's been no  
12 question about the Wilson law firm.

13 MR. LYON: Q. Do you know whether you  
14 were interviewed by members of the Wilson law firm  
15 soon after January?

16 A. (Witness shakes head.)

17 Q. The persons who interviewed you soon  
18 after January 1996, do you know if any of those  
19 persons asked you if you had seen other persons  
20 purge the NetWare file server?

21 A. I don't know if they asked or not.

22 But like I said earlier, I've never  
23 seen anyone purge a file.

24 Q. So if they would have asked you, you  
25 would have told them --

1 A. No.

2 Q. -- no.

3 Did you, in 1996, did you have the  
4 occasion to talk with any representatives of the  
5 Federal Communications Commissions?

6 A. When?

7 Q. Anytime in calendar year 1996?

8 A. Yes.

9 Q. Who?

10 A. The network support people.

11 Q. Do you recall any names?

12 A. No.

13 Q. Do you recall the name of Lewis Segalis  
14 (phonetic)?

15 A. No.

16 Q. Do you recall speaking with anyone who  
17 identified him or herself as an investigator and/or  
18 attorney employed by the Federal Communications  
19 Division in 1996?

20 A. No.

21 Q. In 1997?

22 A. No.

23 Q. 1998?

24 A. No.

25 Q. Are you aware that Ms. Power is an

1 attorney with the Federal Communications  
2 Commission?  
3 A. Yes.  
4 Q. Have you ever met a man by the name of  
5 Joe Webber?  
6 A. No.  
7 Q. Have you ever had a telephone call with  
8 a man by the name of Joe Webber?  
9 A. No, not that I know of.  
10 Q. Have you ever received a letter or a  
11 subpoena or any other document from Joe Webber?  
12 A. No.  
13 Q. From Ms. Power?  
14 A. No.  
15 Q. Have you ever had a telephone  
16 conversation with Ms. Power?  
17 A. No.  
18 Q. And prior to today, you've never met  
19 Ms. Power?  
20 A. That's correct.  
21 Q. Did you have a conversation with  
22 Ms. Power prior to the deposition?  
23 A. No.  
24 MS. POWER: Could you clarify what you  
25 mean by "conversation"?

1 MR. LYON: Did he talk to you?

2 Q. Did you talk to Ms. Power?

3 A. No.

4 MR. ALTSHULER: You mean other than the  
5 introductions that took place prior to today's  
6 session? Is that part of the deposition? Is that  
7 what you mean?

8 THE WITNESS: I talked to her in the  
9 hallway first coming in.

10 That's when I first met her.

11 MR. LYON: Q. What did you say to her?

12 A. She introduced herself. It was small  
13 talk. It was nothing about this other than how  
14 little she knows about computers and things like  
15 that, and relax; it's not going to be the most  
16 pleasant day of your life, but you'll get through  
17 it.

18 Q. I would echo her comments.

19 There was nothing discussed regarding  
20 the substance of this proceeding?

21 A. No.

22 Q. She didn't ask you any questions  
23 regarding the case?

24 A. No.

25 Q. Drawing your attention to -- did you  
54

1 ever see any report made by the person or persons  
2 who interviewed you shortly after January 23, 1996?

3 A. No, I never saw the final report.

4 Q. Did you ever see a preliminary report?

5 A. I don't think so.

6 Q. Were you ever called and asked  
7 clarifying questions?

8 A. No.

9 Q. Did anyone associated -- did anyone who  
10 you understood to be associated with the persons  
11 who interviewed you ever send you a letter asking  
12 any questions?

13 A. No.

14 Q. Did you send them a letter?

15 A. No.

16 Q. Send them any documents?

17 A. No.

18 Q. Other than the tape?

19 A. I handed that to him.

20 MR. ALTSHULER: To whom?

21 THE WITNESS: To Javier Lamoso.

22 MR. LYON: Okay. I'm sorry. I was  
23 confused.

24 Q. Was Mr. Lamoso present when you were  
25 interviewed?

1           A.    I don't remember.  I know he was in the  
2 office.  I don't know if he was in the room.

3           Q.    Did the interview take place in the  
4 San Mateo Group offices?

5           A.    Yes.

6           Q.    Do you recall the room in which it took  
7 place?

8           A.    Their conference room.

9           Q.    Would you put a -- on Exhibit 1, would  
10 you mark the conference room with a "Y."

11          A.    (marking.)

12          Q.    Were any other San Mateo Group  
13 employees present in the conference room when you  
14 were interviewed, to your knowledge?

15          A.    I don't think so, no.

16          Q.    Drawing your attention to the period  
17 before January 23, 1996, which I will subsequently  
18 call "the bid error day," for short, what was the  
19 atmosphere like during the first ten rounds of  
20 bidding.

21               MR. ALTSHULER:  Objection as vague.  
22 Lack of foundation.

23               MR. LYON:  Q.  Do you recall that there  
24 were ten rounds of bidding prior to the bid error  
25 day?

1 A. Yes.

2 MR. LYON: Let's go off the record,  
3 please.

4 (Brief telephone interruption.)

5 MR. LYON: Q. Did you have occasion to  
6 observe the preparations by the various San Mateo  
7 Group employees in connection with bidding, the  
8 preparation of bidding procedures?

9 MR. ALTSHULER: Object as vague.

10 MR. GORDIN: Object as compound.

11 MR. LYON: Q. Can you answer?

12 A. Can you restate it?

13 Q. Sure.

14 Were the employees of the  
15 San Mateo Group calm as they went about their  
16 bidding?

17 MR. ALTSHULER: Object as vague and  
18 lack of foundation.

19 MR. LYON: Q. Do you understand what  
20 I'm asking?

21 A. I think so, and if you're asking me  
22 what was the mood of the office?

23 Q. Exactly. What was the mood in the  
24 office?

25 MR. ALTSHULER: As to what date? Any  
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1 particular date now?

2 MR. LYON: Q. First ten rounds of

3 bidding?

4 MR. ALTSHULER: I object as compound.

5 But can you answer.

6 THE WITNESS: Can I?

7 MR. ALTSHULER: Yes. Sure.

8 THE WITNESS: There actually was an air

9 of excitement about the bidding.

10 MR. LYON: Could it be also

11 characterized as hurried?

12 MR. GORDIN: Object. Leading.

13 MR. ALTSHULER: Same objection.

14 Vague. Lack of foundation.

15 THE WITNESS: I don't know.

16 MR. LYON: Q. Hectic?

17 MR. ALTSHULER: Same objection.

18 THE WITNESS: Yes, it was hectic.

19 There was a lot of activity.

20 MR. LYON: Q. Were there ever any loud

21 voices?

22 A. I don't remember.

23 Q. Raised voices?

24 A. I don't remember.

25 Q. Let me take you through the bid error

1 day, and again that's January 23, 1996.

2 What time did you arrive at the  
3 office -- were you at the San Mateo Group offices  
4 that day?

5 A. Yes.

6 Q. What time did you arrive?

7 A. I don't remember the time. It was  
8 early in the morning.

9 Q. Was there anything unusual about your  
10 arrival?

11 A. Yes. We couldn't get in.

12 Q. How long did it take for you to get in?

13 A. Fifteen, twenty minutes.

14 Q. Did you need to call someone to let you  
15 in?

16 A. Mr. Easton.

17 Q. You called Mr. Easton?

18 A. No, I didn't personally call him. I  
19 don't know who called him.

20 Q. Were there other people waiting to get  
21 in?

22 A. Yes.

23 Q. Who?

24 A. Mike Gavette and Cynthia Hamilton.

25 Q. You don't know which of Mike Gavette or

1 Cynthia called him?

2 A. No.

3 Q. Why couldn't you get in?

4 A. The doors were locked, and we didn't  
5 have a key.

6 Q. Do you know whether the locks had been  
7 recently changed?

8 A. Yes.

9 Q. Do you know why they had been recently  
10 changed?

11 A. There was another computer consultant  
12 that was on staff that left, and I forget his name,  
13 but after he left he had a key and all the locks  
14 were subsequently changed.

15 Q. After you were given admittance to the  
16 offices, what did you do?

17 A. I went into the conference room.

18 Q. And how long were you in the conference  
19 room?

20 A. Until after the round was over.

21 Q. What were you doing?

22 A. Just watching.

23 Q. Okay. Did you have the occasion to  
24 observe Mr. Easton?

25 MR. ALTSHULER: At what point in time?

1 MR. LYON: Q. During the time you were  
2 in the conference room?

3 MR. ALTSHULER: During the entire  
4 period of time he was in the conference room?

5 MR. LYON: Q. During any of that time  
6 period, did you observe what Mr. Easton was doing?

7 Q. I'm sorry, Counsel. "During that time  
8 period," meaning the whole bidding day, or the time  
9 period he was in the conference room?

10 MR. LYON: Q. The time period you were  
11 in the conference room?

12 A. Did I see Mr. Easton?

13 Q. Yes.

14 Q. What was he doing?

15 MR. GORDIN: May I clarify something?  
16 You talking about prebid submission, which is the  
17 period he just started off in the conference room,  
18 or at any time he was in the conference room during  
19 the day?

20 I think we just can help move this  
21 along.

22 MR. LYON: Q. The time he was in the  
23 conference room that morning?

24 A. I stayed in the conference until after  
25 the bidding was over.

1 Q. What time was it over?

2 A. I don't remember.

3 Q. Did you leave the conference room at

4 any point during that period?

5 A. I don't think so.

6 Q. The conference room is a glass walled

7 conference room, isn't it?

8 A. Yes.

9 Q. So you could see out the glass; is that

10 correct?

11 A. Yes, that's correct.

12 Q. Were you able to observe anyone outside

13 the glass?

14 A. Cynthia was at her station. I believe

15 Mike Gavette went back into the area where his

16 station was, and Mr. Easton went to his office.

17 Q. Other than Mike Gavette, Mr. Easton,

18 Ms. Hamilton and yourself, were any other persons

19 present during the time you were in the conference

20 room?

21 A. I don't think so. I think we were the

22 only ones there.

23 Q. Mr. Pezzaglia wasn't there?

24 A. I don't think so.

25 Q. Mr. White wasn't there? Do you know

1     who Mr. White is?

2             A.    No.   I'm trying to remember.   Oh,  
3     Graham.   I don't think so.

4             Q.    Mr. Merburger (phonetic), was he there,  
5     Scott Merburger?

6             A.    I don't think so.

7             Q.    Lorri Collins, was she there?

8             A.    I believe we were the only ones there.

9             Q.    And not to belabor the point, but  
10    was Ronit Millstein there during that period?

11            A.    I don't think so.

12            Q.    Do you know when any of those persons  
13    came into the office that day?

14            A.    I don't remember.

15            Q.    You don't remember when any of them  
16    came in?

17            A.    No, I don't?

18                   MR. ALTSHULER:   Other than what you've  
19    testified about before?

20                   THE WITNESS:   I mean, when we all came  
21    in Ms. Cynthia Hamilton, Mr. Easton and Mike  
22    Gavette?

23                   MR. LYON:   Right.

24                   THE WITNESS:   Other than that, I don't  
25    remember the rest of the staff coming in.

1 MR. LYON: Q. Eventually Mr. White  
2 came in the office that day, did he not?  
3 A. I don't know.  
4 Q. And Mr. Pezzaglia?  
5 A. Once again, I don't know.  
6 Q. Would your answer be the same for each  
7 of the other persons I mentioned, Merburger,  
8 Millstein and so forth?  
9 A. Yes, it would be.  
10 Q. Do you believe that Ronit Millstein was  
11 at the San Mateo Group offices that day?  
12 A. I don't know.  
13 Q. Ms. Collins?  
14 A. Once again, I don't know.  
15 Q. Scott Merburger?  
16 A. Don't know.  
17 Q. Mr. White?  
18 A. Don't know.  
19 Q. To try to move this along, would you be  
20 in a position to know what either -- or what any of  
21 the following people were doing that day:  
22 Ms. Miller, Scott Merburger, Lorri Collins,  
23 Mr. Pezzaglia or Mr. White?  
24 A. No.  
25 Q. Would you be in a position to know what

1 Ms. Hamilton was doing?

2 A. Yes. I could see her.

3 Q. Mr. Easton?

4 A. Part of the time.

5 Q. Okay. What part of the time were you  
6 able to observe what Mr. Easton was doing?

7 MR. ALTSHULER: Counsel, I'm sorry to  
8 interrupt, but I am confused over what time frame  
9 you are talking about now.

10 MR. LYON: Now I'm talking the entire  
11 day.

12 MR. ALTSHULER: So now not just the  
13 pre, but we're talking about now the entire day?

14 MR. LYON: That's right.

15 MR. ALTSHULER: Do you understand that?

16 THE WITNESS: Yes.

17 MR. LYON: Q. And you understood that  
18 when you were answer the questions I just asked  
19 you?

20 A. Yes.

21 Q. I'll repeat the question with respect  
22 to Mr. Easton.

23 What period during the day were you in  
24 a position to observe Mr. Easton?

25 A. During bid submission, and when the



1 round results coming back.

2 Q. Any other time?

3 A. No.

4 Q. Is that because he was near -- or he  
5 was out near Ms. Hamilton's work station and you  
6 could see him through the conference room?

7 A. Yes.

8 MR. GORDIN: Object to leading.

9 MR. LYON: Q. Were you in the  
10 conference room most of the day that day?

11 A. Yes. I had a short day that day.

12 Q. What time did you leave?

13 A. Right after the bidding. That was the  
14 only round of bidding for the day.

15 Q. Do you recall the time when the bidding  
16 was accomplished?

17 A. No, I don't remember the times.

18 Q. Would it have been before lunch?

19 A. Yes.

20 Q. Would it have been before 11:00?

21 A. I imagine so.

22 Q. Did you have an understanding of when  
23 the bid had to be submitted that day to the FCC?

24 A. Yes.

25 Q. And what's your understanding of when

1 the bid had to be submitted?

2 A. I don't remember the exact time, but I  
3 know we came in accordingly prior to the bid  
4 submission time.

5 Q. Do you know where Mr. Easton entered  
6 the bid from? That was a terrible question.

7 Let me try again.

8 Actually, let's put that aside for now.

9 Do you have a recollection of when the  
10 bid results came back?

11 A. I don't quite understand the question.

12 Q. It was my understanding that you  
13 indicated you left shortly after the bid results  
14 came back; is that correct?

15 A. That's correct.

16 Q. What I'm attempting to do is determine  
17 if you remember the time when the bid results came  
18 back.

19 A. No.

20 Q. But it was before lunch?

21 A. Yes.

22 Q. Do you know whether it was before  
23 11:00?

24 A. I would be guessing.

25 Q. Okay. I might want you to guess, and

1 if so, I'll make that clear; but generally I won't.

2 A. Okay.

3 Q. Also just -- I would prefer that when  
4 you answer, you not make assumptions, so that way I  
5 know I'm getting your actual recollection or  
6 knowledge.

7 A. Yes. All right.

8 Q. Were you at the San Mateo Group offices  
9 when the bidding error was discovered?

10 A. Yes.

11 Q. How soon after the bidding error was  
12 discovered did you leave?

13 A. Probably 20 minutes.

14 Q. Could you describe the reactions of any  
15 of the San Mateo Group principals who you recall  
16 being present when the bidding error was  
17 discovered?

18 MR. GORDIN: Object to the question.  
19 It's ambiguous.

20 Do you mean the reactions at the time  
21 of the discovery?

22 MR. LYON: Yes, sir.

23 THE WITNESS: What do you mean by  
24 "principals"?

25 MR. LYON: Okay. Let me take it person

1 by person.

2 Q. Do you recall Mr. Easton's reaction  
3 when the bidding error was discovered?

4 A. Yes.

5 MR. ALTSHULER: For the record, I  
6 object as vague. Lacking foundation.

7 MR. LYON: Q. What was his reaction?

8 A. He was upset.

9 Q. Did he raise his voice?

10 A. I don't remember.

11 Q. Do you have a knowledge of Mr. Easton's  
12 demeanor when he becomes upset?

13 Would you like me to rephrase that?

14 A. Yes.

15 Q. Individuals sometimes react to  
16 excitement in different ways.

17 A. Uh-huh.

18 Q. Some people become calm, some people  
19 begin yelling and screaming, other people may react  
20 in some other fashion.

21 What I'm attempting to determine is if  
22 you have any knowledge of how Mr. Easton reacts  
23 when he becomes upset.

24 A. I would have to say no.

25 Q. What was Ms. Hamilton's reaction when

1 the bidding error was discovered?

2 A. I don't know. I really don't.

3 Q. Did you have the opportunity to observe  
4 her at or about the time the bidding error was  
5 discovered?

6 A. Yes, and I still don't know.

7 Q. Do you recall whether you observed  
8 Ronit Millstein on or about the time the bidding  
9 error was discovered?

10 A. No, I don't remember. I don't think  
11 Ronit was there.

12 Q. Do you recall Mr. Gavette's reaction  
13 when the bidding error was discovered?

14 A. No.

15 Q. What was your reaction when the bidding  
16 error was discovered?

17 A. Surprised.

18 Q. Were you afraid you'd be blamed for it?

19 A. No.

20 Q. Were you afraid anyone else would be  
21 blamed for it?

22 A. No. I guess not.

23 Q. Did you have any concern for what would  
24 be the ramifications of the bidding error to the  
25 San Mateo Group?

1           A.    Yes.  I thought that would end the  
2   bidding.

3           Q.    You thought they would be -- you  
4   thought the FCC would disqualify them?

5           A.    I didn't know what the reaction was  
6   going to be, but I thought that would be the end of  
7   the bidding.

8           Q.    For PCS 2000?

9           A.    I don't know for who, whoever was doing  
10   the bidding.

11          Q.    For Mr. Easton?

12          A.    I mean, whoever was doing the bidding.  
13   I don't know.

14          Q.    Turning back to Exhibit 1, could you  
15   identify Mr. Easton's office with a "z"?  Did  
16   Mr. Easton have an office in the San Mateo Group  
17   suite?

18          A.    Yes.

19          Q.    And do you know where his office was  
20   located?

21          A.    Yes.

22          Q.    Would you draw a "Z" within the office,  
23   or the part of the Exhibit 1 that represents his  
24   office?

25          A.    The area marked "A" (writing).

1 Q. In the conference room, did the  
2 conference room have a door?

3 A. Yes.

4 Q. Was it opened or shut during the period  
5 that the bidding error was discovered?

6 A. It was opened.

7 Q. Okay. Did you come out of the  
8 conference room during that period?

9 A. I think I stood at the doorway and just  
10 kind of watched.

11 Q. Did you talk to anyone at or about that  
12 time?

13 A. I asked what happened.

14 Q. Do you recall who you asked that to?

15 A. No.

16 Q. Do you recall their response?

17 A. Just remember there was a zero added to  
18 a bid.

19 Q. Do you recall whether a telephone call  
20 was placed to the FCC soon after the bidding error  
21 was discovered?

22 A. Yes.

23 Q. Were you there when that call was  
24 discovered?

25 A. Yes.

1 Q. Do you know who placed that call?

2 A. Mr. Easton.

3 Q. Do you know where he placed the call  
4 from?

5 A. Yes.

6 Q. Where?

7 A. Behind Cynthia's desk.

8 Q. And did he take the call from behind  
9 Cynthia's desk.

10 MR. GORDIN: Objection. Ambiguous in  
11 light of the prior question.

12 MR. LYON: Q. Did Mr. Easton or  
13 Cynthia transfer the call to Mr. Easton's office?

14 A. I don't remember.

15 Q. Did you hear what was said by  
16 Mr. Easton during that call?

17 A. Yes.

18 Q. Do you recall how long the call was?

19 A. Maybe five minutes.

20 Q. Do you know who Mr. Easton was speaking  
21 to?

22 A. No.

23 Q. What did Mr. Easton say?

24 A. He told somebody their computer system  
25 screwed up his bid, and then he asked for their



1 supervisor.

2 Q. Okay. And then what did he say?

3 A. After that, I don't remember.

4 Q. Why do you remember the statement that  
5 he made regarding their computer system screwing up  
6 the bid?

7 A. That's what I was there for.

8 Q. You left after that?

9 A. No. No. I mean, that's what -- I  
10 mean, the computer system was my sole purpose  
11 there.

12 Q. I understand.

13 A. So I wanted to make sure it wasn't this  
14 computer system that was screwing up the bid, so I  
15 was listening to it.

16 Q. Was it your understanding at that time  
17 that the error -- let me go back.

18 Did you understand at the time that the  
19 San Mateo Group computer system did not screw up  
20 the bid, did not make the bidding error?

21 MR. ALTSHULER: Object to the question  
22 as vague.

23 MR. LYON: Q. Had you formed a  
24 conclusion at the time Mr. Easton placed his call  
25 as to how the bidding error occurred?